

REMARKS

Claims 1-7 and 9-46 are pending and under consideration. The Examiner's rejections are traversed below, and reconsideration of all rejected claims is respectfully requested.

REJECTION UNDER 35 USC §101

On pages 2-4 of the Office Action, the Examiner rejects claims 5, 6, and 34-42 under 35 U.S.C. §101 as being drawn to non-patentable subject matter. This rejection is traversed and reconsideration is respectfully requested.

In general, in order to reject a recorded data structure as not complying with 35 U.S.C. §101, the Examiner must show that the subject matter is non-functional descriptive material as opposed to functional descriptive material. As noted on page 2100-11 of MPEP 2106, non-functional descriptive material includes arrangements of data such as music. However, non-functional descriptive material does not include data structures that impart functionality when employed as a computer component. These data structures are considered functional descriptive material since the data structure is generally understood to include a logical relationship among data elements. Such a logical relationship supports specific data manipulation functions, which when recorded on a physical medium, is considered statutory subject matter within the meaning of 35 U.S.C. §101. Page 2100-12 of MPEP 2106.

On page 4 of the Office Action, the Examiner summarily states that the claims are "mere arrangements of data, and thus are not statutory." However, it is respectfully submitted that the Examiner's analysis does not indicate how the data is non-statutory, and does not apply the various factors outlined in MPEP 2100-12. Moreover, the Examiner's analysis does not reflect the claims as presented.

By way of review and example, claim 5 recites, among other features, a "content data structure stored on a recordable medium, the content data comprising," "data file information unique to said content data so that said content data is distinguishable by a recording and/or reproducing apparatus from other content data, said data file information comprising information on the corresponding original content data where the content data is copied content data," and "a rights management information area to indicate to the recording and/or reproducing apparatus whether said content data is the original content data or the copied content data transcopied from the original content data such that the recording and/or reproducing apparatus distinguishes between the original and copied content data, and to indicate rights information related to data transcopying, wherein said rights management information for the original content

data and the copied content data changes according to transcopying situations."

Even assuming arguendo that stored data file information and the rights management information area, per se, are non-functional descriptive material, it is noted that claim 5 recites more than a mere storage of data. Instead, claim 5 also recites a functional relationship between the elements of the stored data file information and the rights management information area and their effect and use by a recording and/or reproducing apparatus. Thus, the stored data file information and the rights management information area have a specific logical relationship which supports specific data manipulation functions. As such, it is respectfully submitted that the Examiner has not presented sufficient evidence to support a prima facie rejection of the claims for the purposes of 35 U.S.C. §101.

Since claim 34 also recites a logical relationship between the identification information and rights information as would be understood by a computer, claims 5 and 34 recite data structures which support specific data manipulation functions so as to be distinguishable from mere listings of data. As such, claims 5 and 34 are considered functional descriptive material. Since claims 5 and 34 are recited as being recorded, it is respectfully submitted that claims 5 and 34 are properly considered statutory subject matter within the meaning of 35 U.S.C. §101.

Claims 6 and 35-42 are deemed patentable due at least to their depending from corresponding claims 5 and 34.

STATUS OF CLAIMS NOT REJECTED:

On page 1 of the Office Action, the Examiner allows claims 1-4, 7-32, and 44-46.

SUMMARY:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please

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charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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